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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/736,408

12/15/2000

Miriam Fields-Babineau

4523-001

7703

7590 04/01/2008
TODD E. MARLETTE, ESQ.
10044 Edgewater Terrace
Suite 201
Fort Washington,, MD 20744

EXAMINER

SMITH, KIMBERLY S

ART UNIT	PAPER NUMBER
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3644

MAIL DATE	DELIVERY MODE
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04/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/736,408	Applicant(s) FIELDS-BABINEAU, MIRIAM	
	Examiner Kimberly S. Smith	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/08/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/08/07 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 25-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims have been amended to include a limitation "wherein the second type of material is more elastic than the nylon strap material." Support for this was stated to be on page 3 of the initially filed specification. However, the specification is silent to this limitation. That being, the specification states that the material is more elastic than the nylon strapping used in *other* head halters. As such, the specification does not provide a basis for the comparison of elasticity between the materials used in the Applicant's invention as claimed, only that the

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material used in the Applicant's invention is more elastic than that used in other head halters.

Page 1 of the specification, last paragraph states that "All five head halters use nylon strapping with abrasive edges" (directed to the prior art inventions) and then states at page 3, last paragraph that "All the parts are flat with rounded edges" (directed to applicant's invention). As such, the flat nylon strap used in the present invention is differentiated by the Applicant's specification as being different from that used in prior art applications and as such, the elasticity of the second type of material being more elastic than the *other* head halters does not provide the support for relative comparison between the materials used in the Applicant's claimed invention.

Response to Arguments

4. Applicant's arguments filed 11/08/07 have been fully considered but they are not persuasive. The Applicant's arguments with respect to the elasticity of the prior art inventions is deemed moot in view of the above detailed rejection.
5. The Information Disclosure Statement filed 07/08/05 has been considered and is submitted herewith.
6. With respect to the book published by the Applicant, the book was considered by the Examiner on February 2, 2002 as indicated by the Examiner's initials on the PTO-1449. No further comment is deemed necessary.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is 571-272-6909. The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly S Smith/
Primary Examiner, Art Unit 3644
kss



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :
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Miriam Fields-Babineau :
:
Serial No.: 09/736,408 : Art Unit: 3644
:
Filed: December 15, 2000 : Examiner: Smith, Kimberly
:
For: COMFORT TRAINER : Atty Docket: 4523-001
("CANINE HEAD HALTER") : (MFB-0001)
:
:

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying form PTO-1449 are a number of documents which were previously submitted.

In view of the non-final status of the subject application, it is respectfully requested that the Examiner initial and return a copy of the enclosed form PTO-1449, and to similarly indicate in the official file wrapper of this patent application that the documents have been considered.

Respectfully submitted,

Date:

7/6/2005

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TEM/sef

Todd E. Marlette
Registration No. 35,269




INFORMATION DISCLOSURE CITATION		Atty Docket	Serial No.
		MFB-0001	09/736,408
		Applicant	
		Miriam Fields-Babineau	
		Filing Date	Group Art Unit
		Dec. 15, 2000	3644
OTHER (Including Author, Title, Date, Pertinent Pages, etc.)			
	BA	Thomas Register 1999, pg. COR/10976, CORDAGE: BRAIDED.	
	BB	Thomas Register 1999, pg. COR/10930, CORD: DOG LEASH.	
	BC	Western filament, Inc., 2002 on-line product catalog, pg. 200-203, Flat Braided Tapes, Lacing and Spot Tying Materials, and Lacing Tapes, as of April 28, 2003.	
	BD	Oxford English Dictionary Online, 2003 Oxford University Press, dictionary definition for "flat", pg. 1-30, http://dictionary.oed.com .	
	BE	Oxford English Dictionary Online, 2003 Oxford University Press, dictionary definition for "lofted", pg. 1, http://dictionary.oed.com .	
	BF	§ 132 Declaration of Erid Udler, president, Super Pet Expo, dated September 12, 2002	
	BG	§ 132 Declaration of Alice De Groot, BS., MS., DVM, dated February 4, 2004, and inventor of U.S. Patent No. 4,483,275 and 4,566,255.	
	BH	"Tackett's Mill Veterinary Hospital," letter dated March 28, 2003 from Aileen Tubbs, Veterinary Practice Manager.	
	BI	"Carol's Positive Dog Training," letter dated December 11, 2003, pg. 1-2.	
	BJ	"To Whom it may Concern," letter dated March 25, 2003 from Susan Sharpe sus@anxietywrap.com	
	BK	"Another glowing report on the Comfort Trainer," dated March 22, 2003 from Mary & Bee, teddybsmom@cox.net	
Examiner /Kimberly Smith/		Date Considered 03/26/2008	
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.			

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